

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, CA 95814



September 18, 2001

Regulation Package #0800-19

CDSS MANUAL LETTER NO. AD-01-01

TO: HOLDERS OF THE ADOPTION USERS MANUAL

Regulation Package #0800-19**Effective 9/6/01****Sections 35001, 35179, 35211, 35325, 35333, 35334, 35337, and 35343**

Emergency regulations implementing changes in the Adoption Assistance Program (AAP) mandated by Assembly Bill (AB) 390, AB 1225 and AB 2773 were filed and effective December 1, 2000. In response to public testimony and at the Department's discretion, these regulations were amended to improve clarity, consistency, and ease of reference. Those changes include: 1) clarification that the adoption agency may use the specialized foster care increment previously approved for the child when assessing the child to determine the maximum AAP benefit; 2) clarification that a child who is a California Regional Center (CRC) client may continue to receive an AAP benefit based on the most current level of need assessed by the CRC; 3) allowing AAP benefits to continue for an out-of-home placement paid by another agency, and; 4) additional guidance is given to the adoption agencies in the reassessment process, formerly known as recertification.

These regulations were adopted on September 6, 2001 and were considered at the Department's public hearings held on January 16 and 17, 2001.

FILING INSTRUCTIONS

Revisions to all manuals are shown in graphic screen. The attached pages are to be entered in your copy of the Manual of Policies and Procedures. The latest prior manual letter containing Adoption User's Manual changes was AD-00-01.

<u>Page(s)</u>	<u>Replace(s)</u>
26 and 27	Pages 26 and 27
30 and 31	Pages 30 and 31
322 and 323	Pages 322 and 323
365 through 366.1	Pages 365 and 366
416 and 417	Pages 416 and 417
423 through 430	Pages 423 through 430
433 and 434	Pages 433 and 434
438 through 441	Pages 438 through 441

Attachment

JTP

35001	DEFINITIONS - FORMS	35001
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- (a) (1) "AAP 1" (6/01) means the form entitled, "Request for Adoption Assistance Program Benefit."
- (2) "AAP 2" (3/97) means the form entitled, "Payment Instructions - Adoption Assistance Program."
- (3) "AAP 3" (6/01) means the form entitled, "Reassessment Information - Adoption Assistance Program."
- (4) "AAP 4" (7/97) means the form entitled, "Eligibility Certification - Adoption Assistance Program."
- (5) "AD 1A" (1/95) means the form entitled, "Consent to Adoption by Parent(s) in California."
- (6) "AD 1C" (1/95) means the form entitled, "Consent to Adoption by Parent(s) Outside California."
- (7) "AD 1F" (1/95) means the form entitled, "Consent to Adoption by Parent(s) Outside California in Armed Forces."
- (8) "AD 20" (2/93) means the form entitled, "Refusal to Give Consent to Adoption."
- (9) "AD 20B" (4/92) means the form entitled, "Refusal to Give Consent to Adoption by Alleged Natural Father".
- (10) "AD 42 I" (7/95) means the form entitled, "Independent Adoption Program - Individual Case Report."
- (11) "AD 42 ICA" (7/95) means the form entitled, "Intercountry Adoption Program - Individual Case Report."
- (12) "AD 42R" (7/95) means the form entitled, "Relinquishment Adoption Program - Individual Case Report."
- (13) "AD 67" (6/95) means the form entitled, "Information About the Birth Mother."
- (14) "AD 67A" (6/95) means the form entitled, "Information About the Birth Father."
- (15) "AD 90" (1/94) means the form entitled, "Supporting Information for Issuance of Department of Social Services Acknowledgment."

35001	DEFINITIONS - FORMS (Continued)	35001
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- (16) "AD 100" (12/93) means the form entitled, "Authorization for Release of Information."
- (17) "AD 165" (1/95) means the form entitled, "Consent to Adoption by Parent in California When Legal Father Denies He is the Natural Father."
- (18) "AD 166" (1/95) means the form entitled, "Consent to Adoption by Father Outside California."
- (19) "AD 501 ENG/SP" (12/91) means the form entitled, "Relinquishment (Birth Mother and/or Presumed Father)."
- (20) "AD 501A ENG/SP" (12/91) means the form entitled, "Relinquishment (Out of State)."
- (21) "AD 503 ENG/SP" (12/91) means the form entitled, "Relinquishment - Out of County (Birth Mother and/or Presumed Father)."
- (22) "AD 504" (12/91) means the form entitled, "Relinquishment - Out of State - in-Armed Forces."
- (23) "AD 508" (3/82) means the form entitled, "Rescission Request/Rescission of Relinquishment."
- (24) "AD 512" (7/98) means the form entitled, "Psychosocial and Medical History of Child."
- (25) "AD 551A" (3/94) means the form entitled, "Notification of Procedure in Lieu of Signing Relinquishment Waiver or Denial."
- (26) "AD 558" (8/97) means the form entitled, "Notice of Placement."
- (27) "AD 580" (6/97) means the form entitled, "Notice of Removal of Child from Adoptive Home."
- (28) "AD 583 ENG/SP" (6/95) means the form entitled, "Relinquishment - Out of County (Presumed Father Denies He is the Birth Father)."
- (29) "AD 584 ENG/SP" (8/95) means the form entitled, "Relinquishment - Out of State (Presumed Father Denies He is the Birth Father)."
- (30) "AD 585 ENG/SP" (8/95) means the form entitled, "Relinquishment (Presumed Father Denies He is the Birth Father)."
- (31) "AD 586 ENG/SP" (6/97) means the form entitled, "Relinquishment - In or Out of County (Alleged Natural Father in California)."
- (32) "AD 588 ENG/SP" (6/98) means the form entitled, "Denial of Paternity by Alleged Natural Father - In or Out of California."

35001	DEFINITIONS - FORMS (Continued)	35001
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- (60) "AD 899" (7/98) means the form entitled, "Statement of Understanding -Agency Adoptions Program (Mother or a Presumed Father of the Indian Child Who Is Not Detained, a Juvenile Court Dependent in Out-of-Home Care, or the Ward of a legal Guardian)."
- (61) "AD 899A" (7/98) means the form entitled, "Statement of Understanding -Agency Adoptions Program (Mother or a Presumed Father of the Indian Child Who Is Detained, a Juvenile Court Dependent in Out-of-Home Care, or the Ward of a Legal Guardian)."
- (62) "AD 899C" (7/98) means the form entitled, "Statement of Understanding -Agency Adoptions Program (Alleged Natural Father of the Indian Child Who is Not Detained, a Juvenile Court Dependent in Out-of-Home Care, or the Ward of a Legal Guardian)."
- (63) "AD 899D" (7/98) means the form entitled, "Statement of Understanding - Agency Adoptions Program (Alleged Natural Father of the Indian Child Who Is Detained, a Juvenile Court Dependent in Out-of-Home Care, or the Ward of a Legal Guardian)."
- (64) "AD 900" (1/95) means the form entitled, "Statement of Understanding -Independent Adoptions Program (Parent Who Gave Physical Custody of the Indian Child to the Adoptive Parents)."
- (65) "AD 900A" (1/95) means the form entitled, "Statement of Understanding -Independent Adoptions Program (Parent Who Did Not Give Physical Custody of the Indian Child to the Adoptive Parents)."
- (66) "AD 900B" (1/95) means the form entitled, "Statement of Understanding -Independent Adoptions Program (Alleged Natural Father of Indian Child)."
- (67) "AD 904" (2/94) means the form entitled, "Consent for Contact."
- (68) "AD 904A" (1/94) means the form entitled, "Waiver of Rights to Confidentiality of Adoption Records for Siblings."
- (69) "AD 907" (5/94) means the form entitled, "Adoptive Placement Agreement."
- (70) "AD 908 Eng/Sp" (1/98) means the form entitled, "Adoptions Information Act Statement."
- (71) "AD 909" (8/88) means the form entitled, "Photolisting Data Sheet."
- (72) "AD 920 ENG/SP" (2/93) means the form entitled, "Relinquishment - In or Out of County (Alleged Natural Father in California) - Parent Identifying Adopting Parent(s)."

35001	DEFINITIONS - FORMS (Continued)	35001
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- (73) "AD 921 ENG/SP" (1/93) means the form entitled, "Relinquishment (Birth Mother and/or Presumed Father) - Parent Identifying Adopting Parent(s)."
- (74) "AD 922 ENG/SP" (3/97) means the form entitled, "Relinquishment Addendum for Parent Identifying Adopting Parent(s)."
- (75) "AD 924" (3/95) means the form entitled, "Independent Adoption Placement Agreement."
- (76) "AD 925" (1/95) means the form entitled, "Independent Adoption Placement Agreement - Indian Child."
- (77) "AD 926" (3/97) means the form entitled, "Statement of Understanding -Independent Adoption Program (Parent Who Signs Independent Adoption Placement Agreement)."
- (78) "AD 927" (1/95) means the form entitled, "Statement of Understanding -Independent Adoption Program (Parent of Indian Child Who Signs Independent Adoption Placement Agreement)."
- (79) "AD 928" (3/97) means the form entitled, "Revocation of Consent -Independent Adoption Program."
- (80) "AD 929" (5/97) means the form entitled, "Waiver of Right to Revoke Consent - Independent Adoption Program."
- (81) "AD 930" (1/95) means the form entitled, "Independent Adoption Placement Agreement Transmittal."
- (82) "AD 4310" (1/93) means the form entitled, "Adoption Programs Notice Required by Information Practices Act."
- (83) "AD 4311" (1/98) means the form entitled, "Information on American Indian Child (Adoption Program)."
- (84) "AD 4317" (3/82) means the form entitled, "Revocation of Relinquishment."
- (85) "AD 4320" (4/01) means the form entitled, "Adoption Assistance Program Agreement."
- (86) "AD 4333" (6/96) means the form entitled, "Acknowledgement and Confirmation of Receipt of Relinquishment Documents."
- (87) "AD 4336" (4/97) means the form entitled, "Consent to Adoption by Presumed Father in Armed Forces - Outside of California, Denies He is Natural Father."

35179	INFORMATION TO BE PROVIDED TO AN APPLICANT	35179
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(Continued)

(G) The following information shall be included in this explanation:

1. Adoption assistance, including financial assistance and Medi-Cal benefits, is available to remove or reduce economic barriers preventing families from adopting children who otherwise would remain in long-term foster care.
2. There are significant differences between adoption assistance and foster care as shown in the following chart:

Foster Care

Payments based on child's age and, in some cases, disability or other need for specialized care and/or supervision.

Family resources and circumstances are not considered in determining payment amount.

Adoption Assistance

Negotiated payment is based on child's needs and family's circumstances.

The maximum payment for which the child is eligible is the foster care maintenance payment that would have been paid based on the age-related state approved foster family home care rate and any applicable state-approved specialized care increment the child would have received if not adopted.

Circumstances of the family are considered in determining payment amount.

35179	INFORMATION TO BE PROVIDED TO AN APPLICANT	35179
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(Continued)

Child is eligible for Medi-Cal, but any existing health insurance coverage on the child must be used first.

Child eligible for Medi-Cal but adoptive family must first use any existing health insurance coverage on the child.

Required group home or residential treatment placement would be available for as long as necessary. Foster parents have no right to continue to participate in the child's life and have no right to have the child placed in their home once treatment is no longer necessary.

Required group home or residential treatment placement would be funded by the AAP up to 18 months to address a specific episode or condition justifying that placement. The adoptive parents must actively participate in a plan to reunify the child with the adoptive family.

- (5) Information about additional benefits which may be available to assist in the completion of the adoption.

HANDBOOK BEGINS HERE

- (A) The following benefits may be available to applicants to assist in the completion of the adoption:
1. Reimbursement for non-recurring adoption expenses.
 2. Federal income tax credit which may reimburse the family for all or part of the cost of an adoption.
 3. Employer adoption benefits.
 4. Maternity and paternity leave.

HANDBOOK ENDS HERE

- (6) Information about the availability of services to facilitate contact between the parties to the adoption, before or after the adoption is completed, including the development of a kinship adoption agreement when the applicant is a relative of the child to be adopted.

SUBCHAPTER 5 PROCEDURES FOR AGENCY ADOPTIONS**Article 13 Completing the Adoption****35209 KINSHIP ADOPTION AGREEMENT****35209**

- (a) If the adoption petition includes a proposed kinship adoption agreement, the agency shall review the documents to determine whether all the following requirements are satisfied:
- (1) A kinship, as defined in Family Code Section 8714.7(c), exists between the adopting relatives and the child which allows a kinship adoption agreement.

HANDBOOK BEGINS HERE

- (A) Family Code Section 8714.7(c), states:

"(c) This section is applicable only to kinship adoption agreements in which the adopting parent is a relative of the child or a relative to the child's half-sibling and the adoption petition is filed under Section 8714.5. For purposes of this section and Section 8714.5, "relative" means an adult who is related to the child or the child's half sibling by blood or affinity, including all relatives whose status is preceded by the words "step," "great," "great-great," or "grand," or the spouse of any of these persons, even if the marriage was terminated by death or dissolution."

HANDBOOK ENDS HERE

- (2) The content of the proposed kinship adoption agreement meets the statutory requirements specified in Family Code Section 8714.7.
- (3) The proposed kinship adoption agreement is in the best interest of the child.
- (4) The child who is to be adopted has consented to and signed the kinship adoption agreement, if he or she is age 12 or older.
- (b) The agency shall advise the adopting relative and the birth parent if any determination made under Section 35127.1 will cause the agency to recommend that the court not grant the post-adoption contact privileges in the proposed kinship adoption agreement.
- (c) The agency shall include in its report to the court a discussion of its findings and conclusions based on determinations made under Section 35127.1 and a recommendation as to whether the court should grant the post-adoption contact privileges in the proposed kinship adoption agreement.

35209	KINSHIP ADOPTION AGREEMENT	35209
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(Continued)

- (1) If the proposed kinship adoption agreement has been amended following advice given pursuant to Section 35127.1, the agency shall base its court report on the amended kinship adoption agreement.

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code; Section 1530, Health and Safety Code; and Section 8621, Family Code. Reference: Sections 8714.5, 8714.7, and 8715, Family Code.

35211	COMPLETING THE COURT REPORT	35211
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- (a) Before submitting a report to the court, the agency shall provide written information about the availability of Adoption Assistance Program (AAP) benefits to the prospective adoptive parents.

HANDBOOK BEGINS HERE

- (1) Welfare and Institutions Code Section 16119, in pertinent part states:

"At the time of application for adoption of a child who is potentially eligible for Adoption Assistance benefits is made, and at the time immediately prior to the finalization of the adoption decree, the department or the licensed adoption agency, whichever is appropriate, shall provide the prospective adoptive family with information, in writing, on the availability of Adoption Assistance Program benefits, with an explanation of the difference between these benefits and foster care payments."

HANDBOOK ENDS HERE

- (b) The agency shall file a report to the court in all cases where the agency has signed an adoptive placement agreement and the prospective adoptive parents have filed an adoption petition.
 - (1) The report to the court shall be submitted as soon as all requirements are completed but no later than either 180 days after the adoption petition has been filed or the time extended by the court.
 - (2) If two or more agencies are participating in a cooperative placement, the prospective adoption family's agency shall be responsible for preparing the report to the court unless the agencies mutually agree otherwise.

35211	COMPLETING THE COURT REPORT	35211
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(Continued)

- (c) The agency shall give the petitioners or their attorney a copy of the court report at the time it is filed.
- (d) The report to the court shall include, to the extent available, the following information:
- (1) Medical and family background information about the birth parents as required by Section 35195(a).
 - (2) Information obtained in the Assessment of the Child as required by Section 35127.1.
 - (3) Information obtained in the Assessment of the Applicant as required by Section 35180.
 - (4) Conclusions drawn from an assessment of whether the petitioner's record of criminal or violent behavior, if any, will affect his or her ability to provide appropriate parenting and a stable and safe home environment for the child.
 - (A) The agency shall utilize the most current criminal record information in its preparation of the court report.

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**SUBCHAPTER 7 ADOPTION ASSISTANCE PROGRAM/AID
FOR THE ADOPTION OF CHILDREN (AAP/AAC)****Article 1 AAP Case Initiation****35325 REQUEST FOR ADOPTION ASSISTANCE****35325**

- (a) The Adoption Assistance Program (AAP) removes or reduces barriers to the adoption of children who otherwise would remain in long-term foster care. The program provides necessary financial assistance to families who are willing and able to assume parental responsibility for children but are prevented from doing so by inadequate financial resources.
- (b) The agency shall provide any person who wants to apply for adoption assistance benefits with a Request for Adoption Assistance form (AAP 1).
 - (1) If the agency placing a child for adoption believes the child to be an AAP-eligible child, the agency shall offer the family an AAP 1.
- (c) The public agency responsible for determining AAP eligibility and initial and subsequent payments shall be:
 - (1) The Department or the licensed county adoption agency responsible for the child or,
 - (2) If the child is the responsibility of a licensed private adoption agency, the Department or licensed county adoption agency providing agency adoption services in the county that would provide adoption assistance benefits on behalf of the child.
 - (A) If the child has been voluntarily relinquished for adoption to a licensed private adoption agency, the financially responsible county shall be the county in which the parent who has physical custody of the child resides at the time the relinquishment document is signed.
 - (B) The licensed private adoption agency shall submit the AAP 1 and supporting documentation, including, but not limited to, the assessment of the child required by Section 35127.1 and a description of efforts to locate a non-subsidy home for the child, as the Department or licensed county adoption agency finds necessary in the particular case.

HANDBOOK BEGINS HERE

- (d) The county responsible for providing AAP financial aid and for determining the child's Federal eligibility status is specified by Welfare and Institutions Code Section 16118(e).
 - (1) Welfare and Institutions Code Section 16118(e) states:

HANDBOOK CONTINUES

35325 (Cont.)	ADOPTIONS PROGRAM REGULATIONS AAP/AAC	Regulations
35325	REQUEST FOR ADOPTION ASSISTANCE (Continued)	35325

HANDBOOK CONTINUES

"For purposes of this chapter, the county responsible for determining the child's Adoption Assistance Program eligibility status and for providing financial aid in the amount determined in Sections 16120 and 16120.1 shall be the county that at the time of the adoptive placement would otherwise be responsible for making a payment pursuant to Section 11450 under the CalWORKs program or Section 11461 under the Aid to Families with Dependent Children-Foster Care program if the child were not adopted. When the child has been voluntarily relinquished for adoption prior to a determination of eligibility for such a payment, the responsible county shall be the county in which the relinquishing parent resides. The responsible county for all other eligible children shall be the county where the child is physically residing prior to placement with the adoptive family."

HANDBOOK ENDS HERE

- (2) Once established, the county of responsibility shall remain unchanged for the duration of adoption assistance payments for that child.
- (e) The responsible public agency shall determine whether the child meets the eligibility requirements as specified in Section 35326.
 - (1) If an AAP 1 is submitted on behalf of a relinquished child who is not under the supervision of a county welfare department as the subject of a legal guardianship or a juvenile court dependency, the agency shall ask that entity responsible for providing services to children who are dependents of the court in the county that would be responsible for providing AAP benefits for a written determination as to whether the child would or would not have been at risk of dependency if the child had not been relinquished for adoption.
 - (2) If the responsible public agency determines that the child is not eligible for AAP benefits, the agency shall send the county responsible for payment a completed Payment Instructions - Adoption Assistance Program form (AAP 2) indicating that AAP eligibility is denied and the specific reason(s), including relevant regulatory or statutory citations, for the denial.
 - (3) If the responsible public agency determines that the child is eligible for AAP benefits, the agency shall:
 - (A) Submit the Federal Eligibility Certification for Adoption Assistance Program form (FC 8) to the county responsible for payment.
 - 1. The child's name prior to adoption (birth name) shall be used on the FC 8.

**SUBCHAPTER 7 ADOPTION ASSISTANCE PROGRAM/AID
FOR THE ADOPTION OF CHILDREN (AAP/AAC)****Article 3. AAP Payments****35333 DETERMINATION OF AMOUNT AND DURATION OF AAP
BENEFIT FOR ALL CHILDREN****35333**

The Adoption Assistance Program (AAP) provides benefits to facilitate the adoption of children who otherwise would not likely be adopted. The AAP benefit is a negotiated amount based upon the needs of the child and the circumstances of the adoptive family. The responsible public agency shall negotiate the amount of the AAP benefit and make the final determination of the amount according to the requirements of this section.

- (a) No agency may use an income eligibility requirement (income means test) in determining the AAP benefit.
- (b) The responsible public agency shall assess the child's needs.
 - (1) The agency, after consultation with the adoptive parents and the financially responsible county, if different from the agency, shall identify the child's care and supervision needs, including any special needs beyond basic care and supervision, for which a foster care maintenance payment would be authorized.
 - (A) The adoption caseworker shall base the assessment of the child's needs and required level of care and supervision on all of the following information:
 - 1. Direct observation of the child.
 - 2. Information contained in the child's case record, including birth history and psychological, medical and other relevant assessments completed by licensed professionals.
 - 3. Information about the child based on application of the county's foster care specialized care assessment instrument or any specialized foster care increment previously approved for the child.
 - 4. Information provided by the adoptive parents.
- (c) The responsible public agency shall determine the maximum AAP benefit for which the child is eligible.
 - (1) Step 1: The agency in consultation with the financially responsible county, if different from the agency, shall determine the state-approved foster care maintenance payment that the child would have received in a foster family home if the child had remained in foster care.

35333	DETERMINATION OF AMOUNT AND DURATION OF AAP BENEFIT FOR ALL CHILDREN (Continued)	35333
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HANDBOOK BEGINS HERE

- (A) A child in a foster family home receives a maintenance payment limited to the age-related, state-approved foster family home care rate and any applicable state-approved specialized care increment for which the child is eligible.

HANDBOOK ENDS HERE

1. No agency may use a Foster Family Agency (FFA) treatment rate or a payment made to a certified home by a FFA on behalf of the child for purposes of calculating the maximum AAP benefit for which the child is eligible.
- (B) If the child is living in the adoptive family's home, the agency shall assume that, but for adoptive placement, the child would be living in a licensed foster family home.
 1. If the child is placed for adoption within the financially responsible county, the AAP benefit shall be based on the child's foster care maintenance payment, not to exceed the age-related, state-approved foster family home care rate, for which the child would otherwise be eligible.
 2. If the child is placed for adoption in California but outside the financially responsible county, the AAP benefit shall be based on the foster care maintenance payment, not to exceed the age-related, state-approved foster family home care rate of the financially responsible county or that of the host county, whichever is higher, for which the child would otherwise be eligible.
 3. If the child is placed for adoption outside California, the AAP benefit shall be based on the foster care maintenance payment, not to exceed the applicable California age-related, state-approved foster family home care rate or the applicable rate in the host state, whichever is higher, for which the child would otherwise be eligible.
 4. If the child also has any special needs which would qualify him or her for a specialized care increment, the AAP benefit shall include the applicable state-approved specialized care increment in addition to the foster care maintenance payment, based on the rate described in Section 35333(c)(1)(B) 1., 2., or 3.
 - a. If the child requires a benefit based on a special need in addition to age-related basic care, the agency shall document each special need by describing the need including the underlying problem or condition.

35333	DETERMINATION OF AMOUNT AND DURATION OF AAP BENEFIT FOR ALL CHILDREN (Continued)	35333
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- b. Specialized care provides a supplemental payment to a family home caregiver, in addition to the basic family home care rate, for the cost of supervision (and the cost of providing that supervision) to meet the additional daily care needs of a child who has a health or behavior problem.

HANDBOOK ENDS HERE

- c. If the child is placed for adoption outside the financially responsible county, the agency shall use the specialized care rate of the host county or that of the financially responsible county, whichever is higher, or that of the financially responsible county when the host county has no specialized care system.
- (C) If the child is a client of a California Regional Center (CRC) for the Developmentally Disabled, the maximum rate shall be the foster family home rate formally determined for the child by the Regional Center using the facility rates established by the California Department of Developmental Services. CRC clients who leave California shall be able to continue to receive AAP benefits based on the most recent level of need assessed by the CRC.
- (D) If the child is temporarily living away from the adoptive home and the AAP benefit is not authorized under Section 35334(a) or Section 35334(c), the agency shall consider the child to be living in the adoptive home when the eligibility requirements of Section 35326 continue to be met.
- (2) Step 2: The agency shall determine the amount of income received by or on behalf of the child.
- (A) The agency shall consider income including, but not limited to, SSI/SSP, Social Security benefits based on the earnings of a birth parent, or available income from an inheritance or a trust fund derived from assets of a birth parent or his or her relatives or created on behalf of the child as a result of a lawsuit or insurance settlement.
- (3) Step 3: The agency shall calculate the maximum AAP benefit for which the child is eligible by subtracting the child's income identified according to Section 35333(c)(2) from the sum of the age-related, state-approved foster family home care rate identified according to Section 35333(c)(1) and any applicable state-approved specialized care increment. This remaining amount is the maximum AAP benefit available for the child.
- (d) The responsible public agency shall determine the circumstances of the family.

35333	DETERMINATION OF AMOUNT AND DURATION OF AAP BENEFIT FOR ALL CHILDREN (Continued)	35333
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- (1) Corroborating documentation shall be unnecessary when the adoptive parents attest to the following information requested by the agency:
- (A) A written statement from the adoptive parents explaining how they plan to incorporate the adoptive child into their family and the impact, if any, on their family's lifestyle and circumstances.
- (B) "Circumstances of the Family" means circumstances of the family as defined in Welfare and Institutions Code Section 16119(d)(2).

HANDBOOK BEGINS HERE

1. Welfare and Institutions Code Section 16119(d)(2) states:
- "For purposes of paragraph (1), "circumstances of the family" includes the family's ability to incorporate the child into the household in relation to the lifestyle, standard of living, and future plans and to the overall capacity to meet the immediate and future plans and needs, including education, of the child."
2. The agency should not control or participate in the adoptive family's choices regarding their lifestyle, standard of living or future plans.

HANDBOOK ENDS HERE

- (e) The responsible public agency shall negotiate the amount of any AAP benefit with the adoptive family. For purposes of negotiation, the agency shall follow the legislative intent expressed in Welfare and Institutions Code Section 16115.5 and the requirements in Welfare and Institutions Code Section 16119(d)(1).

35333	DETERMINATION OF AMOUNT AND DURATION OF AAP BENEFIT FOR ALL CHILDREN (Continued)	35333
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- (1) (A) Welfare and Institutions Code Section 16115.5 states:

"It is the intent of the Legislature in enacting this chapter to benefit children residing in foster homes by providing the stability and security of permanent homes and in so doing, achieve a reduction in foster home care. It is not the intent of this chapter to increase expenditures but to provide for payments to adoptive parents to enable them to meet the needs of children who meet the criteria established in Section 16116, 16120 and 16121."

- (B) Welfare and Institutions Code Section 16119(d)(1) states:

"The amount of an adoption assistance cash benefit, if any, shall be a negotiated amount based upon the needs of the child and the circumstances of the family. There shall be no means test used to determine an adoptive family's eligibility for the Adoption Assistance Program. In those instances where an otherwise eligible child does not require a cash benefit, Medi-Cal eligibility may be established for the child as needed."

HANDBOOK ENDS HERE

- (2) The agency shall make a good faith effort to negotiate the AAP benefit with the adoptive parents.
- (3) The agency shall encourage the adoptive parents to request the AAP benefit they require in order to meet the child's needs taking into account their family circumstances.
- (4) The agency shall base the negotiated AAP benefit on the needs of the child and the circumstances of the family determined through discussion with the adoptive parents.
- (A) The agency shall advise the adoptive parents that the amount of the AAP benefit determined for the child is limited to the age-related, state-approved foster family home care rate and any applicable state-approved specialized care increment for which the child would have been eligible had he or she remained in foster care.
- (5) The agency shall include in the child's AAP file a written summary of the negotiations and discussions with the adoptive parents.
- (A) When only age-related basic care is requested by the family, the agency shall include a statement to that effect for retention in the child's AAP file.
- (6) The amount of the negotiated AAP benefit shall be between zero and the maximum AAP benefit for which the child is eligible as identified according to Section 35333(c)(3).

35333	DETERMINATION OF AMOUNT AND DURATION OF AAP BENEFIT FOR ALL CHILDREN (Continued)	35333
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- (A) The agency shall advise the adoptive parents that the AAP benefit does not include payment for any specific good or service, but is intended to assist the adoptive parents in meeting the child's needs.
- (7) At the conclusion of negotiations, if agreement on the AAP benefit has been reached, the agency shall authorize payment of the AAP benefit in the agreed amount.
- (f) When agreement on the AAP benefit has been reached, the responsible public agency shall complete an Adoption Assistance Agreement (AD 4320) with the adoptive parents.
- (1) The agency shall complete the AAP 2 instructing the county to send a Notice of Action to the adoptive parents indicating that the AAP benefit is approved.
- (2) After completion of the Adoption Assistance Agreement (AD 4320), the adoptive parents shall have the right to use the AAP benefit to meet the child's needs as they deem appropriate without further agency approval.
- (g) When the responsible public agency and the adoptive parents are unable to agree on an AAP benefit, the agency shall complete the AAP 2 instructing the county to send the adoptive parents a Notice of Action that the requested AAP benefit is denied. The agency shall specify the reason for denial.

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- (1) If the adoptive parent does not agree on the AAP benefit, the parent may request a state hearing as instructed in the Notice of Action pursuant to MPP Section 22-004.

HANDBOOK ENDS HERE

- (h) A reassessment of the AAP benefit shall be required every two (2) years beginning from the date of a signed Adoption Assistance Program Agreement (AD 4320) between the agency and the adoptive parents.
- (1) The AAP benefit shall be increased automatically at the same time and to the same degree as any automatic adjustments to payments for state-approved basic foster care maintenance.
- (2) Payment of the AAP benefit shall terminate in the month in which the child becomes 18 years of age or if the agency has determined that the child has a mental or physical disability that warrants the continuance of assistance, in the month in which the child becomes 21 years of age.

NOTE: Authority Cited: Sections 10553, 10554, 14023, and 16118, Welfare and Institutions Code. Reference: Sections 15115.5, 16118, 16119, 16120, 16120.05, 16121, and 16121.05, Welfare and Institutions Code; 45 CFR 1356.40; 42 USC 673 and 675.

35334	DETERMINATION OF AMOUNT AND DURATION OF AAP BENEFIT FOR A CHILD IN TEMPORARY OUT-OF-HOME PLACEMENT (Continued)	35334
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- (a) The responsible public agency shall determine the amount and duration of the AAP benefit when the child is placed, either on a voluntary basis or as a court dependent, in out-of-home care to treat a condition that the agency has determined to have existed before the adoptive placement.
- (1) The agency shall conclude that the child would have been placed in the same out-of-home care facility if the child had not been placed for adoption if, after consultation with the adoptive parents, the agency has determined that:
- (A) Out-of-home placement is necessary to meet the child's needs,
- (B) The specific placement is able to meet the child's needs appropriately, and
- (C) The facility's rate classification level is appropriate to the child's needs.
- (2) The agency shall determine the maximum AAP benefit for which the child is eligible for out-of-home placement.
- (A) If the adoptive parents are paying for the cost of the placement directly, the available AAP benefit is the state-approved foster care facility rate for which the child is eligible.
- (B) If the placement cost is paid by another agency (e.g., county welfare department, probation office, regional center), the available AAP benefit shall be either the age-related, state-approved basic foster family home care rate or the adoptive parent's actual share of cost for support of the child, whichever is greater, but not to exceed the foster family home rate as determined under Section 35333(c)(1).

HANDBOOK BEGINS HERE

1. Under Title 2 California Code of Regulations Section 60020(c), the county financially responsible for making AAP payments is responsible for the provision of mental health assessments and mental health services.

HANDBOOK ENDS HERE

35334	DETERMINATION OF AMOUNT AND DURATION OF AAP BENEFIT FOR A CHILD IN TEMPORARY OUT-OF-HOME PLACEMENT (Continued)	35334
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- (3) If the initial Adoption Assistance Program Agreement (AD 4320) for the child was signed on or after October 1, 1992, the duration of a child's placement in a group home or residential treatment facility shall be limited to an 18-month cumulative period of time for a specific episode or incident justifying that placement.
- (b) If the responsible public agency approves the provision of wrap-around services, as defined in Welfare and Institutions Code Section 18251(d), in lieu of out-of-home placement, the amount of the AAP benefit shall be limited to the amount that would have been paid for the out-of-home placement.
- (c) If the child is placed out-of-home as a ward of the court under Welfare and Institutions Code Section 601 or 602, the maximum AAP benefit for which the child is eligible shall be either the adoptive parents' actual share of cost for support of the child or the foster family home rate as determined under Section 35333(c)(1), whichever is less.
- (d) The AAP benefit for the child's placement in a group home or residential care treatment facility shall continue to be available, provided the requirements of this section are met and the adoptive parents actively participate in a plan to return the child to the adoptive home.
- (e) When the responsible public agency and the adoptive parents agree on the AAP benefit, the agency shall complete an Adoption Assistance Program Agreement (AD 4320) with the adoptive parents.
- (1) The agency shall state in the agreement that the AAP benefit is intended for the child's out-of-home placement.
- (2) The agency shall complete the AAP 2 instructing the county to send the adoptive parents a Notice of Action indicating that the AAP benefit is approved.
- (f) The duration of an Adoption Assistance Program Agreement (AD 4320) for the child's out-of-home placement shall be 18 months before a subsequent reassessment is required.

NOTE: Authority Cited: Sections 10553, 10554, 14023, and 16118, Welfare and Institutions Code.
Reference: Sections 15115.5, 16118, 16119, 16120, 16120.05, 16121, and 16121.05, Welfare and Institutions Code.

**SUBCHAPTER 7 ADOPTION ASSISTANCE PROGRAM/AID
FOR THE ADOPTION OF CHILDREN (AAP/AAC)****Article 4. Adoption Assistance Agreement****35337 CONTENT OF THE ADOPTION ASSISTANCE AGREEMENT****35337**

- (a) The Adoption Assistance Program Agreement form (AD 4320) shall contain the following:
- (1) The child's adoptive name and the name(s) of the adoptive parent(s).
 - (2) The amount and duration of financial assistance.
 - (3) The specific needs for which payments are being authorized.
 - (4) That the existence of a characteristic that is a barrier to the child's adoption without subsidy has been confirmed by the agency.
 - (5) That, until termination of financial assistance, the adoptive parents shall notify the child's agency immediately regarding the following:
 - (A) A change in their mailing address on record with the agency.
 - (B) The child begins to receive unearned income as specified at Section 35333(c)(2)(A).
 - (C) They are no longer responsible for the support of the child.
 - (D) They are no longer supporting the child.

35337	CONTENT OF THE ADOPTION ASSISTANCE AGREEMENT	35337
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(Continued)

- (6) That a failure to report the changes specified in Sections 35337(a)(5)(B) through (D) may result in an overpayment which would be recovered by a direct charge or a reduction in current and future AAP benefits.
- (7) That continuation of payment depends upon continued legal responsibility of the adoptive parents for the support of the child and upon continued receipt by the child of that support.
- (8) That the AAP benefit will be reduced if the AAP benefit amount exceeds the foster care maintenance payment that would have been made if the child had remained in a foster family home.
- (9) That the AAP benefit may be reduced if the child receives other unearned income as specified in Section 35333(c)(2)(A).
- (10) That the child is eligible for Medi-Cal services.
- (11) That the child is eligible for services provided pursuant to Title XX of the federal Social Security Act.
 - (A) Title XX services are public social services as described under MPP Sections 30-000 and 31-000.
- (12) The procedure for reassessment of the AD 4320.
- (13) That the agreement remains effective regardless of the state in which the adoptive parents reside.
- (14) Any additional services and assistance which are to be provided as part of the agreement.

NOTE: Authority cited: Sections 10553, 10554, and 16118, Welfare and Institutions Code. Reference: 42 USC 673, 695; 45 CFR 1356.40; Sections 14051, 16120, 16120.05, 16121 and 16121.05, Welfare and Institutions Code.

**SUBCHAPTER 7 ADOPTION ASSISTANCE PROGRAM/AID
FOR THE ADOPTION OF CHILDREN (AAP/AAC)****Article 6. AAP Reassessment****35343 PROCEDURES FOR REASSESSMENT OF THE CHILD'S NEEDS 35343**

- (a) A reassessment process shall be completed by the agency which authorized the initial payment either:
- (1) During the 90-day period prior to the end of each payment authorization period specified in Section 35333(h).
 - (A) The process shall not be completed if the child is no longer eligible due to age.
 - (2) Prior to the 90-day period at the request of the adoptive parent or if the agency learns that the current AAP grant may no longer be appropriate because:
 - (A) The adoptive parents may no longer be legally responsible for the support of the child.
 - (B) The adoptive parents may no longer be supporting the child.
 - (C) The adoption assistance benefit may exceed the amount for which the child would have been eligible in a licensed foster family home.
 - (D) Repealed by CDSS Manual Letter No. AD-01-01, effective 9/6/01.
 - (b) The reassessment process shall include the following steps:
 - (1) The county responsible for payment shall mail the adoptive parent(s) the Reassessment Information Adoption Assistance Program form (AAP 3) as specified in CDSS Manual of Policies and Procedures, Eligibility and Assistance Standards Section 45-805.1.

HANDBOOK BEGINS HERE

- (A) MPP Section 45-805.1 states: "EAS 45-805.1: The county shall mail the adoptive parent(s) the Recertification Information -Adoption Assistance Program form (AAP 3) at least 60, and not more than 90, calendar days prior to the date recertification is due and shall document in the case record the date such form was mailed."

HANDBOOK ENDS HERE

- (B) The adoptive parent(s) shall return the AAP 3 to the agency which authorized the initial payment.

35343	PROCEDURES FOR REASSESSMENT OF THE CHILD'S NEEDS	35343
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(Continued)

- (2) After the public adoption agency receives the completed AAP 3 from the adoptive parents, the agency shall determine the procedure, as listed below, to follow in order to complete the reassessment process:
- (A) If the adoptive parents select box 1 on the AAP 3 indicating they no longer wish to receive an AAP benefit for their child, the agency shall follow the procedures as specified in Section 35339 for completing a deferred payment agreement.
- (B) If the adoptive parents select box 2 on the AAP 3 indicating they request the AAP benefit to continue at the current level, the agency shall complete and send a Payment Instructions Adoption Assistance Program (AAP 2) form to the county within five working days of completing the reassessment process.

HANDBOOK BEGINS HERE

1. MPP Section 45-805.3 states: "EAS 45-805.3: The county shall not provide assistance beyond the end of the last month of payment indicated on the Payment Instructions - Adoption Assistance Program form (AAP 2) unless continued assistance is authorized by the agency on a subsequent AAP 2."

HANDBOOK ENDS HERE

- (C) If the adoptive parents select box 3 requesting an increase in the amount of the AAP benefit, the adoptive parents shall provide written documentation of the child's special needs justifying the increase. This documentation must be sufficient so as to assist the agency in determining whether or not the increase is warranted. The agency may require additional information as necessary.
1. The agency shall base the reassessment of the child's needs and required level of care and supervision on the following information:
- a. Information provided by the adoptive parents.
- b. Information about the child based on application of the county's foster care specialized care assessment instrument.
2. The responsible public agency shall follow the procedures in Section 35333(c) in determining the new maximum AAP benefit amount.
3. If the agency determines that a change in the amount of payment appears appropriate, the adoptive parents' concurrence shall be obtained prior to changing the amount of payment.

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(Continued)

- a. The adoptive parents' concurrence is not required by law if the payment amount is changed to prevent the payment from exceeding the maximum payment amount specified in Section 35333(c)(1).
- 4. The agency and the adoptive parents shall complete an AD 4320 which indicates that the agreement is an amendment to the initial AD 4320.
 - a. If the agency and the adoptive parents are unable to agree on the amount of the AAP benefit, the agency shall complete an AAP 2 instructing the county to send a Notice of Action to the adoptive parents indicating that the request for additional AAP benefits is denied and that the AAP benefit will continue at the prior rate. The agency shall specify the reason for denial as "The agency and the family cannot agree on benefits."

HANDBOOK BEGINS HERE

- b. If the adoptive parent does not agree with the change in the AAP benefits, the parent may request a state hearing as instructed on the Notice of Action pursuant to MPP Section 22-004.

HANDBOOK ENDS HERE

- 5. The agency shall complete and send a Payment Instructions Adoption Assistance Program (AAP 2) form to the county within five working days of completing the reassessment process.

HANDBOOK BEGINS HERE

- a. MPP Section 45-805.3 states: "EAS 45-805.3: The county shall not provide assistance beyond the end of the last month of payment indicated on the Payment Instructions - Adoption Assistance Program form (AAP 2) unless continued assistance is authorized by the agency on a subsequent AAP 2."

HANDBOOK ENDS HERE

- (D) If the adoptive parents select box 4 requesting a decrease in the amount of the AAP benefit, the agency and the adoptive parents shall complete an AD 4320 which indicates that the agreement is an amendment to the initial AD 4320.

35343	PROCEDURES FOR REASSESSMENT OF THE CHILD'S NEEDS	35343
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(Continued)

1. The agency shall complete and send a Payment Instructions Adoption Assistance Program (AAP 2) form to the county within five working days of completing the reassessment process.
- (E) If the adoptive family fails to return the AAP 3 within the 90 days before the end of the payment authorization period, the agency shall conclude that the family does not want to continue receiving assistance.
 1. If the family returns the AAP 3 within 30 days after the expiration of the 90-day period, the effective date of renewal shall be the last day of the 90-day period.
 2. If the family takes more than 30 days after the expiration of the 90-day period to return the AAP 3, the effective date of renewal shall be the date on which assistance was requested in writing.
- (3) The agency shall complete and send a Health Insurance Questionnaire (DHS) 6155 if the child is Medi-Cal eligible and has private health coverage.

NOTE: Authority cited: Sections 10553 and 16118, Welfare and Institutions Code and Section 1530, Health and Safety Code. Reference: Sections 16120, 16121 and 16121.05, Welfare and Institutions Code and 42 USC 673.